



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Wai Hing Lai et al.)	Group Art Unit: 3742
Application No.: 10/693,938)	Examiner: John A. Jeffery
Filed: October 28, 2003)	Confirmation No.: 4311
For: ELECTRIC GRILL)	
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CONDITIONAL NOTICE OF APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A response to the Office Action dated November 16, 2004 is being filed concurrently herewith. As pointed out in the Request filed December 9, 2004, that Office Action should not have been made final, since it contained a rejection of claims 11 and 12 on newly-cited prior art. These claims had not been substantively amended, and thus the citation of the new reference was not "necessitated" by any amendments to these claims. Pursuant to MPEP § 706.07(a), the rejection should not have been made final, and Applicants timely filed a Request to Withdraw the Finality of the Office Action.

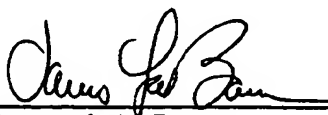
Subsequent to the filing of the Request, numerous calls were made to Examiner Jeffery to determine whether the Request was going to be granted, prior to filing a substantive response to the Action. When he could not be reached, calls were also made to his supervisor. None of the messages left with either of them have been returned.

Applicants believe that the response being filed concurrently herewith places the application in condition for allowance. In the event that it does not, it is respectfully submitted that a further Office Action is in order, since the finality of the previous Office Action was premature. If, however, the finality is maintained and the response is not considered to place the application in condition for allowance, the application could go abandoned, since there are no further extensions of time available. To prevent such an occurrence, Applicants are filing this **conditional** Notice of Appeal. Applicants appeal the rejection of claims 1-9, 11 and 12 as set forth in the Office Action dated November 16, 2004. This Notice of Appeal shall be effective only if (a) the finality of the Office Action dated November 16, 2004 is not withdrawn, (b) prosecution of the application is not reopened, and (c) the response being filed concurrently herewith does not place the application in condition for allowance.

If the Notice of Appeal is necessary to prevent abandonment of the application under the conditions set forth above, the Director is authorized to charge the fee for a Notice of Appeal, as set forth in 37 CFR § 1.17(b), to the undersigned's Deposit Account No. 02-4800.

Respectfully submitted,
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: May 16, 2005

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